

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CAMEO LOREE GARRETT,

Plaintiff,

6:12-cv-581-CL

v.

ORDER

ROBERT MULLER, et al,

Respondents.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation (#5), and the matter is now before me. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Plaintiff filed objections and I have reviewed the file of this case *de novo*. See 28 U.S.C. § 636(b)(1)(c); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). I conclude the Report is correct.

Plaintiff argues she never consented to a Magistrate Judge presiding over her petition and requests the Report be stricken. Federal Rule of Civil Procedure 72 and Local Rule 72-1 authorize Magistrate Judge Clarke to refer a Report under the circumstances

present here.

Plaintiff also argues she is entitled to have the named defendants served and that "dismissal of a petition does not relieve the court from its burden to serve respondents with copies, and to serve notice upon other courts of automatic stay." Plaintiff is mistaken. The judge must dismiss the petition when it plainly appears that the petitioner is not entitled to relief. Rule 4 of the Rules Governing Section 2254 Cases In The United States District Courts; see Rule 4 1976 Advisory Notes ("under § 2243 it is the duty of the court to screen out frivolous applications and eliminate the burden that would be placed on the respondent by ordering an unnecessary answer."); 28 U.S.C. § 1915(e)(2).

Finally, plaintiff argues her petition is not frivolous. I disagree. I agree with Magistrate Judge Clarke that while difficult to make out, "the factual allegations in the instant case are irrational and wholly incredible." Plaintiff appears to allege a vast government conspiracy involving numerous members of the military, FBI agents, the Catholic church, public defenders, judges, and even Secretary of Defense Leon Panetta. Plaintiff appears to allege the goal of the conspiracy was to take plaintiff's child away from her, and to generally torture and harass plaintiff. I conclude the petition is frivolous and fails to state a claim for relief. See 28 U.S.C. § 1915(e)(2).

Magistrate Judge Clarke's Report and Recommendation (#5) is adopted. The petition is denied and this action is dismissed with

prejudice. Because plaintiff has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED. See 28 U.S.C. § 2253(2).

IT IS SO ORDERED.

DATED this 11 day of May, 2012.

A handwritten signature in black ink, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE